

REMARKS

This Amendment is responsive to the Decision on Appeal dated April 30, 2010. Applicant has amended claims 1, 7 and 25. Applicant also added claims 26-29. Claims 1, 3-11, 13-15 and 17-29 are pending.

Claim Rejections Under 35 U.S.C. § 102 and 103

The Decision on Appeal maintained the rejection of rejected claims 7, 8, 19 and 25 under 35 U.S.C. §103(a) as being unpatentable over Meltzer and included a new rejection of claims 6, 17, 18 and 20 under 35 U.S.C. §103(a) as being unpatentable over Meltzer. The Decision on Appeal also newly rejected claims 1, 3-5, 9, 11 and 21-24 under 35 U.S.C. § 102(b) as being anticipated by Meltzer (US 5,645,586). Applicant respectfully transverses the rejections to the extent the rejections may be considered applicable to the claims as amended. Meltzer fails to disclose or suggest each and every feature of the claimed invention, and there is no apparent reason one of ordinary skill in the art at the time of Applicant's invention would have found the claimed invention to have been obvious.

As amended, independent claim 7 recites an implantable medical device comprising: a first module comprising a first housing wherein the first housing provides a first space within the first housing, wherein the first space contains control electronics; a second module comprising a second housing, wherein the second housing provides a second space within the second housing, wherein the second space containing one or more components of the implantable medical device; and a coupling module fixedly coupled to the first and second housings. The coupling module is hermetically fixed to the first and second housings, wherein the coupling module is made of a metal that defines at least one lumen between the first and second housings, the at least one lumen connecting the first space with the second space. The coupling module permits motion of the first housing relative to the second housing along at least one axis of motion.

The Decision on Appeal maintained the rejection of independent claim 7. In particular, even though the Examiner found that Meltzer fails to disclose a coupling module that defines at least one lumen between the first and second housings, the Board found that Meltzer does in fact disclose such a feature. In particular, the Decision on Appeal characterized transverse cylinder

34 of hinge 33 of Meltzer as the coupling module recited in Applicant's claims.¹ However, it appears that this characterization is mistaken as Meltzer appears to disclose that transverse cylinder 34 is a solid element. Applicant suspects that Board instead intended to characterize transverse channel 35, which receives transverse cylinder 34, as providing a lumen.² In any event, neither transverse cylinder 34 nor transverse channel 35 of Meltzer can be reasonably characterized as forming a lumen providing each of the features recited by claim 7 as amended.

In contrast to claim 7 as amended, hinge 33 of Meltzer does not define at least one lumen between a first and second housings, the at least one lumen connecting a first space provided by the first housing with a second space provided by the second housing. While hinge 33 of Meltzer does include transverse channel 35, transverse channel 35 does not connect spaces within housing elements as provided by claim 7 as amended. Instead, transverse channel 35 is entirely external to the housing segments disclosed by Meltzer.

The Decision on Appeal further characterized an encapsulated interconnect, ribbon or cable as a coupling module that defines at least one lumen between the first and second housings.³ The Decision on Appeal failed to directly address the feature of wherein the coupling module is made of a metal as recited by independent 7. However, an encapsulated interconnect, ribbon or cable is not made of a metal that defines at least one lumen as recited by claim 7, and an encapsulated interconnect, ribbon or cable cannot be reasonably characterized as the coupling module recited in claim 7. For this reason, the Board must have relied upon the characterization of the hinge 33 of Meltzer as providing the coupling module recited in claim 7 in support of the rejection of claim 7. As previously discussed, hinge 33 fails to provide a lumen that connects spaces within housing elements as provided by claim 7 as amended.

In this manner, Meltzer fails to disclose the feature of a coupling module made of a metal that defines at least one lumen between a first and second housings, the at least one lumen connecting a first space provided by the first housing with a second space provided by the second housing as provided by claim 7 as amended. For at least these reasons, Meltzer fails to disclose or suggest the combination of features recited by claim 7 as amended.

¹ Decision on Appeal, page 8

² Meltzer, column 4, lines 2-12.

³ Decision on Appeal, page 8

For similar reasons, Meltzer fails to disclose or suggest the features recited by independent claims 1 and 25 as amended. As an example, as amended, claim 1 includes the feature of a coupling module that defines at least one lumen between the housings, the at least one lumen connecting the spaces within at least two of the housings. Claim 25 recites similar features.

In contrast to claims 1 and 25, Meltzer fails to disclose such a coupling module. For example, as discussed with respect to claim 7, hinge 33 of Meltzer fails to define a lumen that connects spaces within housing elements. In addition, an encapsulated interconnect, ribbon or cable, which were also characterized by the Board as a coupling module, also do not define a lumen that connects spaces within housing elements as provided by Applicant's claims as amended. Instead, an encapsulated interconnect, ribbon or cable would simply provide an electrical connection between housing elements. In this manner, Meltzer fails to disclose the feature of a coupling module as recited by independent claims 1 and 25 as amended.

Meltzer fails to disclose or suggest each and every feature recited by Applicant's claims 1, 7 and 25 as amended. The dependent claims are patentable for at least the reasons independent claims 1, 7 and 25 are patentable. Applicant respectfully requests the Examiner withdraw the rejection of claim 1, 3-9, 11 and 17-25 under 35 U.S.C. §102(b) and 35 U.S.C. §103(a).

Claims Not Rejected

The Decision on Appeal did not include a rejection of claims 10, 13, 14 and 15. Accordingly, Applicant believes the Board considered claims 10, 13, 14 and 15 to recite allowable subject matter. In addition, claims 10, 13, 14 and 15 are patentable for at least the reasons independent claim 7 is patentable as discussed above.

For at least these reasons, claims 10, 13, 14 and 15 are in condition for allowance. Applicant requests the Examiner provide an indication that claims 10, 13, 14 and 15 are in condition for allowance.

New Claims

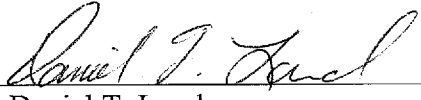
Applicant has added claims 26-29 to the pending application. The applied references fail to disclose or suggest the inventions defined by Applicant's new claims, and there is no apparent

reason one of ordinary skill in the art at the time of Applicant's invention would have found the claimed invention to have been obvious. As one example, Meltzer fails to disclose or suggest one or more conductors traversing the lumen and connecting components within the first space to components within the second space in combination with the coupling module of independent claim 25, as recited by claim 26. No new matter has been added by the new claims.

CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

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